

No response 3-24-92

Internal Revenue Service
District Director

Department of the Treasury

P. O. Box 2508
Cincinnati, OH 45201

Date: FEB 20 1992

- Employer Identification Number: [REDACTED]

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.


As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position, as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient

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District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,


District Director

Enclosures: 3

Enclosure I
Reasons for proposed denial of exempt status

[REDACTED]

Information submitted with your application indicates that you were incorporated in the State of [REDACTED] on [REDACTED]. Your amended Articles of Incorporation indicate that your purposes are:

- To aid in the development of good character in gymnasts through competitive activities;
- To support the gymnasts of [REDACTED];
- To sponsor home gymnastics meets;
- To provide support for team activities;
- To promote gymnastics; and

Said organization is organized exclusively for charitable, religious, educational and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any further federal tax code.

Your Constitution indicates, in part, that your purposes are to:

- Support the [REDACTED] gymnastic team(s) and related activities.
- Take responsibility for home gymnastic meets.
- Provide financial help for team activities.
- Promote gymnastics throughout the community.

Your Constitution also provides the following:

The purpose of the organization shall not be to hinder or obstruct in any way the coach or staff in his/her/their coaching duties and will in no way enter into coaching matters.

The parents or guardians of a member of the [REDACTED] competitive team(s) are automatically members of the organization. The owner of [REDACTED] will be a member of the organization. Each family and the owner of [REDACTED] shall be entitled to one vote.

Your Bylaws provide that a member shall lose his/her membership by withdrawal or dismissal of his/her gymnast from a [REDACTED] competitive team.

[REDACTED]

Your letter dated [REDACTED], indicates that [REDACTED] is doing business as [REDACTED]. [REDACTED] is owned by [REDACTED] and is a commercial, for-profit entity, which operates a gymnastics club and offers gymnastics classes to the public for a fee. You also stated that the owner of [REDACTED] is a member of your organization in order to coordinate the boosters with the needs of the team program.

Your organization is a group of parents of the gymnasts who are training at [REDACTED] and who compete in gymnastics competition. On your application you stated this organization was formed as a booster organization to assist in support and fund raising for the gymnasts of [REDACTED] and that as a private booster club, you raise funds to host meets and provide other kinds of support to the gymnasts who are members of a competitive team. Your fundraising activities have included concessions, hosting meets, and selling various products and gymnastic paraphernalia. Hosting a meet includes rental of the facilities, securing judges, inviting other clubs to participate, and managing the event.

Your organization owns no facilities. You use the facilities of [REDACTED] which consists of a gym equipped for gymnastics competition.

In [REDACTED] you indicated that your organization had [REDACTED] members who paid membership dues of \$[REDACTED] and that you supported the gymnasts of these [REDACTED] members for the gymnastics year. There were [REDACTED] competitive gymnasts.

For the period [REDACTED] (your date of incorporation), through [REDACTED], you reported contributions of \$[REDACTED], membership dues of \$[REDACTED], fund raising income of \$[REDACTED], and interest income of \$[REDACTED]. You paid entry fees of \$[REDACTED] in [REDACTED] and a total of \$[REDACTED] in coaching fees.

Funds are used to pay coaches when you sponsor a meet or request a coach to accompany the team to a meet. Funds are also used to send gymnasts to camps in order to improve the gymnasts' skills and to pay for flowers for gymnasts prior to meets. You stated that your organization pays coaching fees for competitive gymnastics meets and that if your organization did not exist, these fees would be incurred by each gymnast every time they competed in a meet. The parents pay entry fees for the meets their child competes in to your organization and you in turn pay the total amount of entry fees for the team for each meet.

[REDACTED]

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(b)(1)(iv) of the Regulations states that in no case shall an organization be considered to be organized exclusively for one or more exempt purposes, if, by the terms of its articles, the purposes for which such organization is created are broader than the purposes specified in section 501(c)(3).

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations indicates that an organization is not organized or operated exclusively for one or more of the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. It must not be organized or operated for the benefit of private interests. Private interests include designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly by such private interests.

Section 1.501(c)(3)-1(d)(2) of the Regulations defines the term "charitable" according to its generally accepted legal sense which includes the education of children and combatting juvenile delinquency. Under certain circumstances, "charitable" can also include the promotion of amateur athletics.

Revenue Ruling 69-175, 1969-1 C.B. 149, concluded that an organization, organized and controlled by the parents of children attending an exempt private school, to provide bus transportation to and from school was not exempt under section 501(c)(3) of the

[REDACTED]

Code. The revenue ruling reasoned that the parents were providing themselves a cooperative service that enabled them to fulfill their individual responsibility of transporting their children to school. Consequently, the organization was serving private interests.

Revenue Ruling 65-2, 1965-1 C.B. 227, held that an organization which was organized and operated to teach a particular sport to community children by providing free instruction, free equipment and free facilities qualified for exemption under section 501(c)(3). The organization provided instruction in schools, playgrounds and parks, encouraged participation in tournaments, and arranged for attendance of players and instructors at state tournaments. The program was available to any child in the community who wanted to participate, was physically able and met the age requirements. The organization had the charitable purposes of educating the public, and combatting juvenile delinquency which lessened the burdens of government.

Revenue Ruling 80-215, 1980-2 C.B. 174, held that an organization which was formed to develop, promote and regulate a sport for persons under 18 years of age by organizing competition, promulgating rules, organizing officials and presenting seminars for players, coaches, and referees was exempt under section 501(c)(3) of the Code. The activities of the organization prevented juvenile delinquency and were educational.

Revenue Rulings 65-2 and 80-215 indicate that organizations which promote sports for children are educational and combat juvenile delinquency under section 501(c)(3) of the Code. Although you facilitate the competition of children under 18, you are precluded from exemption under section 501(c)(3) of the Code because your activities provide a private benefit to member parents and to [REDACTED].

The reason you were created and your method of operation indicate that you are made up of a group of parents who have joined together to work cooperatively to provide funds to pay for the participation of their children in athletic events. The expenses incurred by these children would otherwise have been paid by the parents. All parents of competitive team members are automatically members of your organization. Accordingly, members expect to receive a benefit in return for their membership. You pay no benefits to non-members.

In addition, you provide a private benefit to [REDACTED], a for-profit entity. By paying for the fees and transportation of coaches you are covering expenses that would otherwise have been paid by [REDACTED] for directly by the team members. You also

Enclosure I con't

[REDACTED]

promote [REDACTED] by promoting its gymnastic team. Enabling the team to compete in meets and hosting meets helps to create and enhance the reputation of [REDACTED] and encourage others to take classes there.

You are an organization created and controlled by parents who are providing themselves a cooperative service which enables them to fulfill their responsibility to their children in a manner similar to the organization described in Revenue Ruling 69-175. The organization in that revenue ruling met the member parents' responsibility to transport their children to school, and you meet the member parents' responsibility to pay the fees for their children's gymnastic competition. Consequently, the holding of that revenue ruling would apply to you. You are therefore not exempt because you are serving the private interest of your members and [REDACTED] rather than public interests.

You do not meet the operational test because you are not engaged in activities which accomplish one or more exempt purposes specified in section 501(c)(3) of the Code.

You do not meet the organizational test because your Articles of Incorporation do not limit your purposes to one or more exempt purposes. Your Articles of Incorporation include supporting the gymnasts of [REDACTED] as one of your purposes. This is a for-profit entity.

Accordingly, you are not organized or operated exclusively for one or more exempt purposes within the meaning of section 501(c)(3) of the Code. Therefore, you do not qualify for exemption under section 501(c)(3) of the Code.